THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE S.ANANDA REDDY

MONDAY, THIS THE NINTH DAY OF JULY,
TWO THOUSAND AND SEVEN
WRIT PETITION No.17150 of 1997

Between:
M/s. Kabsons Gas Equipment Ltd.,
Represented by its M.D. Sri Satish Kabra,
Registered Office: Plot No. 40 & 41, CIEEP,
Gandhi Nagar, Balanagar, Hyderabad - 500 037
And another

…Petitioners

And

Commissioner of Central Excise Customs,
O/o. Central Excise and Customs Collectorate,
Fathe Maidan Road, Basheerbagh, Hyderabad
And others.

…Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE S.ANANDA REDDY
W.P. No. 17150 of 1997

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard the learned counsel for the parties.

2. This writ petition is filed challenging the order passed by the Respondent No.3, dated 25.2.1997. It appears that the 2nd petitioner filed an application on 6.2.1997 seeking registration of its Unit -

M/s.Gasolec Appliances Private Limited. This request was rejected on the ground that there were arrears pending against M/s.R.R. Fasteners Limited payable towards the Department. The petitioner purchased the land and building in a public auction conducted by the A.P. Industrial Development Corporation Limited. This property belonged to M/s. R.R. Fasteners Limited, who was allegedly in arrears towards the Respondents. After the petitioner purchased the property in the public auction conducted by a public Corporation, the petitioner wanted to set up its own business, and therefore, sought registration from the respondents, which was rejected on the ground that the M/s. R.R. Fasteners Limited was in arrears.

3. A reference in the impugned order has been given to Section 11 of the Central Excise Act and Rule 230 of Central Excise Rules, 1944. We have heard the learned counsel for the parties and gone through the Section 11 and Rule 230 of the CE Rules. We have not found any power with the respondent, which would permit them to refuse registration on the ground that certain other concern was in arrears towards them. The petitioner had purchased bonafidely the property in a public auction conducted by a public Corporation, and there was nothing on record to show that the property had any charge towards the respondents.

4. In any case, the respondents had no power or authority to refuse the registration on the ground that the erstwhile owner of the property was in arrears. For this reason, the writ petition is to be allowed. Accordingly, the writ petition is allowed, and the order impugned, dated 25.2.1997, is quashed.

5. We are informed that because of the interim order of this Court on a bond given by the petitioner, registration was given to the petitioner. In view of what has been stated above by us, the bond is discharged. However, if the respondents want to recover the amounts, which were due by the M/s. R.R. Fasteners Limited, and if they can recover such amount from even the petitioners, they are at liberty to proceed in accordance with law. At this stage, we do not comment whether the present writ petitioners are liable to pay any amounts, which were due from the erstwhile owner.

6. Accordingly, the writ petition is allowed. No costs.

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Bilal Nazki, J.

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S.Ananda Reddy, J.

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THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
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W.P. No. 17150 of 1997
ORDER

(Per Hon'ble Mr. Justice Bilal Nazki)

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